

**REMARKS**

The Office Action dated April 7, 2006, has been received and carefully reviewed. The preceding amendments and the following remarks form a full and complete response thereto. Claims 1, 9-10, 20, and 30-31 have been amended. Claims 5, 14, and 28 have been cancelled without prejudice or disclaimer. Claim 32 has been added. Support for new claim 32 can be found, *inter alia*, at page 9 of the specification. No new matter is introduced by any of the amendments. Accordingly, claims 1-4, 6-13, 15-27, and 29-32 are pending in this application and are submitted for consideration.

Claims 1-31 were rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent No. 6,421,653 to May ("May"). The Applicant respectfully traverses the rejection and submits that May fails to disclose each and every feature of the pending claims.

The present invention as claimed is directed to batch auctions that can be conducted during opening and closing of continuous financial markets for a security, and additionally can be carried out throughout the trading day. The claimed systems and methods are characterized by a steps or components that discover an optimum price that reflects true market forces while eliminating gaming that is prevalent in the prior art auction processes.

According to the invention, participants in the batch auction are provided with current order information entered into the order book during the acceptance period,

such as an indicated price and trade order imbalance. In return, participants are allowed to enter new orders and/or modify previous orders only if they satisfy a set of predetermined criteria, that include aggressiveness or net order imbalance, as fully explained in the present application with reference to Fig. 2 of the application. Consequently, the opportunity for gaming is substantially reduced or eliminated, while allowing participants to place orders based on a fuller understanding of true market conditions.

May does not teach any methodology for prohibiting new or modified orders during an order acceptance period that do not meet an aggressiveness or order imbalance criteria. May further fails to describe any means for allocating the results of a batch option on a fair basis, such as including, for example, a pro rata amount of executed shares based on participants qualifying orders.

In contrast to the present invention, May is directed to an internet-based trading system, which enables traders to identify bids and offers that they are eligible to trade based on a color coding scheme. The color coding system considers the credit rating of the potential counterparties to the trade, and is intended to be used with trading financial instruments for which the credit rating of parties is an important factor. See the Abstract. May explicitly states that auto-matching of orders is not performed, see col. 33, ll. 31-34, and thus the individual traders necessarily would be the entities matching orders and selecting prices, contrary to the requirements of the claimed invention.

The Office action cites to col. 43, ll. 43-67 of May as allegedly disclosing a methodology for accepting new or modified orders during an order acceptance period. However, the cited passage merely describes the operation of an auction mechanism whereby an auction price is calculated to maximize the volume traded. May does not disclose continuously sending to the participants information regarding orders as they are received during an order acceptance period and allowing the participants to modify previously submitted orders only if the modification meets a predetermined set of conditions, as set forth in claim 1, and also similarly set forth in independent claims 20, 30 and 31. Further, the settlement module 42 of May does not apportion the results of a batch auction on any fair basis. It merely fills the orders.

May describes an order management system that includes an order blotter that allows modification of passive orders, but there is no disclosure or suggestion that modification of orders is prevented when a modification fails to meet any criteria, such as aggressiveness or net order imbalance criterian.

Thus, May fails to disclose or suggest each and every element of the present claims. Accordingly, the Applicant requests that the rejection be withdrawn and that claims 1-4, 6-13, 15-27, and 29-31 be allowed.

New claim 32 is allowable because May fails to disclose a batch auction method wherein, during an order acceptance period, as each new order is received, the indicated price and net order imbalance is recalculated and disseminated to qualified participants.

In view of the above, all objections and rejections have been sufficiently addressed. The Applicant submits that the application is now in condition for allowance and requests that claims 1-4, 6-13, 15-27, and 29-32 be allowed and this application passed to issue.

In the event that this paper is not timely filed, the Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account No. 02-2135.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the Applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

Respectfully submitted,



10-10-06  
Date  
Attorneys for the Applicant  
Brian A. Tollefson  
Reg. No. 46,338  
ROTHWELL, FIGG, ERNST & MANBECK  
1425 K Street, N.W.  
Suite 800  
Washington, D.C. 20005

(202) 783-6040